IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 23362 of 2004(S)

OA.897/2001 of CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
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PETITIONERS:
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1. UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF RAILWAYS, RAIL BHAVAN, NEW DELHI.

2. GENERAL MANAGER, SOUTHERN RAILWAY, HEADQUARTERS, PARK TOWN, MADRAS.

3. DIVISIONAL RAILWAY MANAGER, SOUTHERN RAILWAY, PALGHAT.

4. SENIOR DIVISIONAL PERSONNEL OFFICER, SOUTHERN RAILWAY, PALGHAT.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:

BABURAJ VALLASSERY, TOWER WAGON DRIVER, OFFICE OF THE SENIOR SECTION ENGINEER, OVER HEAD EQUIPMENTS/TRACTION DISTRIBUTION, SOUTHERN RAILWAY, SHORNUR, RESIDING AT 'SEEMA SADAN', RAILWAY BOOKING OFFICE ROAD, SHORNUR P.O.

BY ADV. SRI.T.C.GOVINDA SWAMY
SMT.D.HEERA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON 16/10/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:-

Ext.P1: **Copy of the OA.NO.897/2001 DTD.23/9/2001 along with Annexures field by the respondent herein before the Central Administrative Tribunal, Ernakulam.**

Ext.P2: **Copy of the reply statement filed by the petitioners herein in OA.No. 897/2001 on the files of the Central Administrative Tribunal, Ernakulam.**

Ext.P3: **Copy of the order dtd.19/12/2003 in OA.No.897/2001 on the files of the Central Administrative Tribunal, Ernakulam.**

Ext.P4: **Copy of the order vide No.P(P)/135/VII/PGT Dn./Vol.III dated 28/6/1990 issued by the Chief Personnel Officer, Madras.**

RESPONDENT'S EXHIBITS:- **Nil.**

(true copy)

P.S. TO JUDGE.

Kvs/-

K. Balakrishnan Nair &
T.R. Ramachandran Nair, JJ.

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W.P.(C).NO.23362 of 2004--S

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Dated this the 16th day of October, 2007

JUDGMENT

Balakrishnan Nair J.

The petitioners were the respondents in O.A. No.897 of 2001 on the file of the Central Administrative Tribunal, Ernakulam Bench, which was disposed of by Ext.P3 order dated 19.12.2003. The point that arose for decision was whether the Driver of a Tower Wagon is entitled to get the scale of pay applicable to the driver of a goods train. The Tribunal, relying on a decision of the Calcutta Bench in **Nalini Adak & others v. Union of India** (2002 (3) ATJ 294), upheld the claim of the applicant who is the respondent herein. Nalini Adak's case was rendered relying on another decision of the same Bench in J**agdish Pandey & others v. Union of India** (O.A. No.321/2001). Learned counsel for the respondent submitted at the Bar that the decision in Jagdish Pandey's case was affirmed by the Calcutta High Court and the decision of the Calcutta High Court is pending in appeal before the Supreme Court in S.L.P.(c) No.8468 – 8469 of 2005. He further submitted that on verification it is found that the said S.L.P. is pending before the Apex Court as on today.

After hearing both sides, we feel that the parties may await the decision of the Apex Court in the above case. It is ordered that the decision in that case will be treated as a decision in this case also and the parties can work out their remedies accordingly.

With the above observations, the writ petition is disposed of.

(K. Balakrishnan Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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